

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York
By: JENNIFER JUDE
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: 212-637-2663
Facsimile: 212-637-2686
jennifer.jude@usdoj.gov

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	x	
	:	
UNITED STATES OF AMERICA,	:	PETITION TO ENFORCE
	:	INTERNAL REVENUE
Petitioner,	:	<u>SERVICE SUMMONS</u>
	:	
- v. -	:	19 Misc.
	:	
DARIUS X. JOHNSON,	:	
	:	
Respondent.	:	
-----	x	

The United States of America (“Petitioner”), by its attorney Geoffrey S. Berman, United States Attorney for the Southern District of New York, alleges upon information and belief as follows:

1. This is a proceeding brought under the authority of sections 7402(b) and 7604(a) of the Internal Revenue Code, 26 U.S.C. §§ 7402(b) and 7604(a), to enforce an Internal Revenue Service (“IRS”) Summons (the “Summons”). The Summons is annexed to the Declaration of Jennifer Kim (the “Declaration”) as Exhibit A.

2. The last known address of Darius X. Johnson (“Respondent”) is 214 Mulberry St., Apt. 3E, New York, New York 10012-4120, *see* Declaration ¶ 8, which is within the jurisdiction of this Court.

3. Jennifer Kim, a Revenue Agent (“RA”) employed in the IRS’s Small Business/Self Employed Division, is currently conducting an investigation for the collection of tax liability of the Respondent for tax years 2012, 2013, 2014, 2015, 2016, and 2017, including but not limited to whether the IRS should assess penalties against Respondent.

See id. ¶¶ 1, 3.

4. On July 30, 2018, the RA personally served the Summons on the Respondent at his last known address. The Summons directed him to produce to the IRS certain books, papers, records, or other data referred to therein on or before August 20, 2018. *See id.* ¶¶ 8-9.

5. In response to the Summons, Respondent submitted to the IRS two account applications for foreign accounts, three “Portfolio Valuation” statements from 2012 and 2013 for his Bermuda Commercial Bank account, and one “Portfolio Transactions” statement from 2013 from that same account, but none of the other documents referred to in the Summons.

See id. ¶¶ 10-11.

6. Due to an error regarding the RA’s manager’s signature, the RA corrected the Summons and served it again. The RA personally served the Summons on the Respondent at his last known address on September 4, 2019. The corrected Summons directed the Respondent to produce to the IRS the same books, papers, records, or other data referred to therein on or before September 24, 2018. *See id.* ¶¶ 12-15, Exhibit A.

7. Respondent did not produce any additional documents or information in response to the Summons served September 4, 2018, and his representative referred the IRS to the documents Respondent had produced in response to the prior Summons. *See id.* ¶¶ 16-17.

8. On October 15, 2018, the IRS's Office of Chief Counsel sent a "last chance" letter to the Respondent directing that he produce the summonsed records by November 9, 2018. *See id.* ¶ 18.

9. Respondent did not produce any records in response to the last chance letter or otherwise respond to it. *See id.* ¶ 19.

10. Other than the six records that Respondent produced to the IRS, the books, papers, records or other data sought by the Summons are not in IRS's possession. *See id.* ¶ 23.

11. The documents sought by the Summons may be relevant to, and can reasonably be expected to cast light upon, the subject of the IRS's investigation. *See id.* ¶¶ 20-22.

12. All administrative steps required by the Internal Revenue Code for issuance of the IRS Summons have been followed. *See id.* ¶ 25.

13. No Department of Justice referral, as defined by 26 U.S.C. § 7602(d)(2), is in effect with respect to the Respondent for the years under investigation. *See id.* ¶ 24.

14. No previous application has been made for the order of relief sought herein.

15. It is the practice of this Court to proceed by Order to Show Cause in these matters.

WHEREFORE, Petitioner respectfully requests:

1. That this Court enter an order directing the Respondent to show cause why he should not be required to comply with and obey the Summons;

2. That this Court enter an order directing the Respondent to obey the Summons by producing the records requested in the Summons to the RA or other authorized official as may be designated by the IRS, at such time and place as hereafter may be fixed by the RA;

3. That the Petitioner recover its costs incurred in maintaining this proceeding; and

4. That this Court grant such other and further relief as it deems just and proper.

Dated: New York, New York
October 21, 2019

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York
Attorney for the United States of America

By: /s/Jennifer Jude
JENNIFER JUDE
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2663
Facsimile: (212) 637-2686
jennifer.jude@usdoj.gov